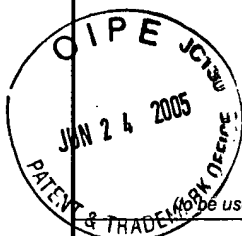


06-24-05

AK/1636  
PTO/SB/21 (09-04)Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM**

Application Number	09/782,255
Filing Date	February 14, 2001
First Named Inventor	BRUCE M. HELD
Art Unit	1636
Examiner Name	N. Vogel
Attorney Docket Number	1205-009

Total Number of Pages in This Submission **8****ENCLOSURES (check all that apply)**

- |  |  |  |
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| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment / Reply<br><input checked="" type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Documents<br><input type="checkbox"/> Response to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Response to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence<br>Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) ____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify<br>below):<br>Express Mailing Label<br>EV211073018US |
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Remarks

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Firm Name	JONDLE & ASSOCIATES P.C.		
Signature			
Printed Name	KENYON L. SCHUETT		
Date	JUNE 23, 2005	Reg. No.	44,324

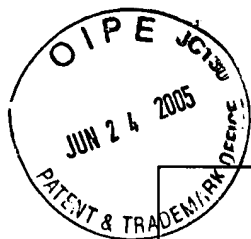
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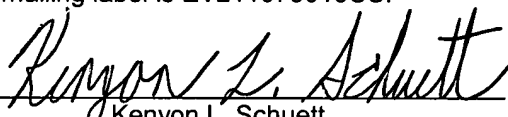
**IN THE  
UNITED STATES  
PATENT AND TRADEMARK  
OFFICE**

<i>Application Number</i>	09/782,255
<i>Filing Date</i>	February 14, 2001
<i>First Named Inventor</i>	Bruce Marvin HELD
<i>Group Art Unit</i>	1636
<i>Examiner Name</i>	Nancy S. Vogel
<i>Attorney Docket Number</i>	N1205-009

*Title of the Invention:* **Promoter and Construct for Plant Transformation**

**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail (post office to addressee) in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, PO Box 1450, Alexandria VA 22313-1450 on this 23<sup>rd</sup> day of June 2005. The number of the Express Mail mailing label is EV211073018US.

  
Kenyon L. Schuett  
Reg. No. 44,324

**AMENDMENT**

Mail Stop Amendment  
Commissioner of Patents  
P O Box 1450  
Alexandria VA 22313-1450

Sir:

In response to the Final Office Action mailed April 26, 2005, please consider the following remarks.

**REMARKS**

The Examiner has rejected claims 43-45 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; specifically that the claims as amended contain new matter which is unsupported by the specification. Applicant directs the Examiner's attention to Example 1, pages 12-13, of the specification in which construction of the MuA promoter is detailed. The MuA promoter has 79% homology with the CaMV 35S promoter which was used as the template. Figure 3